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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,396	02/25/2004	William M. Riesenberg	ASH-1900	2865

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EXAMINER

KUHNS, SARAH LOUISE

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/786,396

Applicant(s)

RIESENBERG ET AL.

Examiner

Sarah L Kuhns

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Applicant's election without traverse of claims 14-21 in the reply filed on 8/23/04 is acknowledged.

### ***Claim Objections***

Claim 18 objected to because of the following informalities: "An pit-receiving orifice" should be "a pit-receiving orifice." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cimperman, U.S. Patent 4,925,691.

In regard to claims 14 and 15, Cimperman discloses a method for pitting and slicing a fruit, such as an olive, including the steps of: advancing a pitting knife and a coring knife into engagement with the fruit (column 1, line 56); while translating the fruit along a segment of a circular first path, ejecting a pit from the fruit while the pitting knife is engaged with the fruit and retracting the coring knife away from the fruit (column 1, line 59); retracting the pitting knife with the pitted fruit impaled thereon, thereby moving

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the pitted fruit along a generally helical path to a point along a circular second path parallel to but separated from the first path (column 2, line 9); and translating the pitted fruit along a segment of the second path past a set of slicing knives in such a manner that the slicing knives engage with and slice the pitted fruit (column 1, line 63).

Although Cimperman fails to disclose the use of spring-biased, pivotably mounted slicing knives, he does disclose an obvious equivalent step of slicing the fruit and it is not seen how this step would be novel. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to substitute the slicing step of Cimperman for the slicing now claimed as both are obvious alternative steps for slicing the fruit, accomplishing the same result.

In regard to claims 16, 17, 20, and 21, Cimperman discloses the slicing knives engaging the pitted fruit while the pitted fruit is impaled on the pitting knife and the slicing knives finish slicing the pitted fruit after the pitting knife has retracted away from the pitted fruit (column 8, line 53).

In regard to claims 18 and 19, Cimperman discloses a method for pitting and slicing a fruit having a pit, including the steps of: advancing a pitting knife and a coring knife aligned therewith into engagement with the fruit, thereby causing the coring knife to core one tip of the fruit (column 1, line 56); advancing the pitting knife to push the fruit against a pitting cup, the pitting cup having a pit-receiving orifice extending therethrough, and continuing to advance the pitting knife while the fruit is constrained by the pitting cup to push the fruit's pit through the pit-receiving orifice and retracting the coring knife away from the fruit and the pitting cup, thereby converting the fruit to a

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pitted fruit (column 6, line 56); retracting the pitting knife with the pitted fruit impaled thereon (column 2, line 9); and translating the pitted fruit along a segment of the second path past a set of slicing knives in such a manner that the slicing knives engage with and slice the pitted fruit (column 1, line 63). Although Cimperman fails to disclose the use of a slicing pocket defined by a chuck plate assembly (the fruit remains in the original cup) and spring-biased, pivotably mounted slicing knives, he does disclose an obvious equivalent step of slicing the fruit and it is not seen how this step would be novel. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to substitute the slicing step of Cimperman for the slicing now claimed as both are obvious alternative steps for slicing the fruit, accomplishing the same result.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK



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